



N.C. Department of Agriculture & Consumer Services
N.C. ADFP Trust Fund
Conservation Easement Monitoring Policy and Guidelines



I. Purpose

The N.C. Agricultural Development and Farmland Preservation (ADFP) Trust Fund, administered by the Farmland Preservation Division of the N.C. Department of Agriculture & Consumer Services, provides grants for agricultural conservation easements on family farms throughout the state of North Carolina.

The ADFP Trust Fund will “hold grantees accountable for the expenditure of State funds by performing monitoring and oversight functions,” in accordance with Administrative Code 09 NCAC 03M “Uniform Administration of State Grants” and Subsection .0400, pursuant to N.C.G.S. 143C-6-22 & 23. The ADFP Trust Fund will work with the grantee to ensure compliance with the terms and conditions of the easement. Monitoring is necessary to make certain the easements are maintained while ensuring a productive relationship between the funding source (ADFP Trust Fund), grantee (counties or private nonprofit conservation organizations, according to N.C.G.S. 106-744), and landowner.

II. Definition of Agricultural Conservation Easements

According to N.C.G.S. 106-744, an “agricultural conservation easement” means a negative easement in gross restricting residential, commercial, and industrial development of land for the purpose of maintaining its agricultural production capability. Agricultural conservation easements may be perpetual or term-limited in duration. The agricultural conservation easement may permit the creation of not more than three lots that meet applicable county zoning and subdivision regulations, provided it is allowed in the original recorded easement.

III. Involved Parties

The ADFP Trust Fund, administered by the Commissioner of Agriculture, is the funding source for purchasing conservation easements. The ADFP Trust Fund has full-time staff administratively located in Raleigh, North Carolina. Part-time field staff members are located remotely throughout the state. The ADFP Trust Fund Monitoring and Stewardship Coordinator is the monitoring program manager, unless otherwise designated by the Farmland Preservation Division Director. ADFP Trust Fund Field Staff and the Monitoring and Stewardship Coordinator will conduct on-site monitoring. On-site monitoring visits are assigned by the Monitoring and Stewardship Coordinator. In-office monitoring reviews are the responsibility of the Monitoring and Stewardship Coordinator.

The ADFP Trust Fund Advisory Committee is administratively located within the N.C. Department of Agriculture and Consumer Services. The Advisory Committee will advise the Commissioner on the prioritization and allocation of funds, the development of criteria for awarding funds, guidelines for monitoring easements and projects, program planning, and other areas where monies from the ADFP Trust Fund can be used to promote the growth and development of family farms in North Carolina.

Grantees are counties or private nonprofit conservation organizations. Grantees are the first point of contact for monitoring conservation easements and discussing potential violations of contracts and/or recorded easements. **Grantees are required to monitor the easement at least once a year and complete annual monitoring reports for the length of the term of the easement.**

Landowners will work with grantees to ensure compliance with the terms and conditions of conservation easements and will be notified of site visits by the grantee.

IV. ADFP Trust Fund Monitoring Roles and Responsibilities

The ADFP Trust Fund monitoring methods include but are not limited to:

- Site visit: ADFP Trust Fund staff and the grantee will make every effort to coordinate their monitoring site visit schedules. ADFP Trust Fund staff will physically visit the easement. ADFP Trust Fund staff will notify the grantee and seek permission from the landowner. The use of unmanned aerial vehicles (UAVs), or drones, can supplement, but not replace in-person site visits. All efforts will be made to see as much of the easement area as possible.
- In-office: ADFP Trust Fund staff will review grantee monitoring reports and verify the information from the reports.

Site visit protocol for ADFP Trust Fund staff:

- Contact the grantee about the site visit. ADFP Trust Fund staff and grantee will coordinate annual monitoring visits to the extent possible.
- Review completed “Grantee Monitoring Report – Perpetual or Term Easement.”
- Ensure landowner has been notified of site visit.
- Site visits can be conducted on foot or by vehicle as long as proper inspection of entire easement area is completed.
- Compile documentation, including, but not limited to, photographs, including land condition, and current use data.
- Complete “ADFP Trust Fund Staff Monitoring Report – Perpetual or Term Easement.”
- Complete “ADFP Trust Fund Staff Incident Report – Perpetual or Term Easement” if necessary.
- A site visit will occur the first year after the recording of the easement, and then every three (3) subsequent years unless otherwise directed.

In-office monitoring protocol for ADFP Trust Fund staff:

- Review completed “Grantee Monitoring Report – Perpetual or Term Easement.”
- Review the most current aerial photography data available (e.g. GIS via Multi-Hazard Threat Database (MHTD), Google Earth, etc.).
- Compare aerial photography with the Baseline Documentation Report and most recent ADFP Trust Fund Staff In-Office Monitoring Report.
- Complete “ADFP Trust Fund Staff In-Office Monitoring Report – Perpetual or Term Easement.”
- Complete “ADFP Trust Fund Staff Incident Report – Perpetual or Term Easement” if necessary.
- In-office monitoring will be completed in the years when site visits do not occur.

Incident report protocol for ADFP Trust Fund staff:

- The “ADFP Trust Fund Staff Incident Report – Perpetual or Term Easement” must be filed if a grantee reports a potential violation or if ADFP Trust Fund staff discovers a potential violation during a site visit or in-office monitoring.
- The completed ADFP Trust Fund Staff Incident Report is submitted to the Monitoring and Stewardship Coordinator for review.
- If further action is needed, the Monitoring and Stewardship Coordinator will discuss the findings with the Farmland Preservation Assistant Director to determine if there is a potential violation.
- If it is determined that there is a potential violation, the completed “ADFP Trust Fund Staff Incident Report – Perpetual or Term Easement” and supplemental documentation will be

submitted to the Program Director and NCDA&CS Legal Affairs for review, investigation, and/or Corrective Action.

- If necessary, the Program Director will meet with funding partners to discuss the findings of the “ADFP Trust Fund Staff Incident Report – Perpetual or Term Easement” review and to determine whether Corrective Action is warranted by the grantee.
- If it is determined that Corrective Action is needed, the appropriate NCDA&CS staff will formally notify the grantee in writing of the violation or potential violation.
- Grantee shall submit a Plan of Corrective Action to the ADFP Trust Fund Staff within 30 days of formal notification in writing of the violation or potential violation. The Plan of Corrective Action must be a comprehensive plan detailing the corrective action that will be taken to remedy all violations and bring the project back in compliance. The Plan of Corrective Action shall require approval by ADFP Trust Fund Staff & NCDA&CS Legal Affairs. The ADFP Trust Fund staff will work with the grantee for correction.
- Any time a violation or potential violation has occurred, an in-person monitoring site visit will occur the subsequent year. The monitoring schedule (site visit, in-office) will be reset each time a violation or potential violation occurs.

V. Grantee Monitoring Responsibilities and Expectations

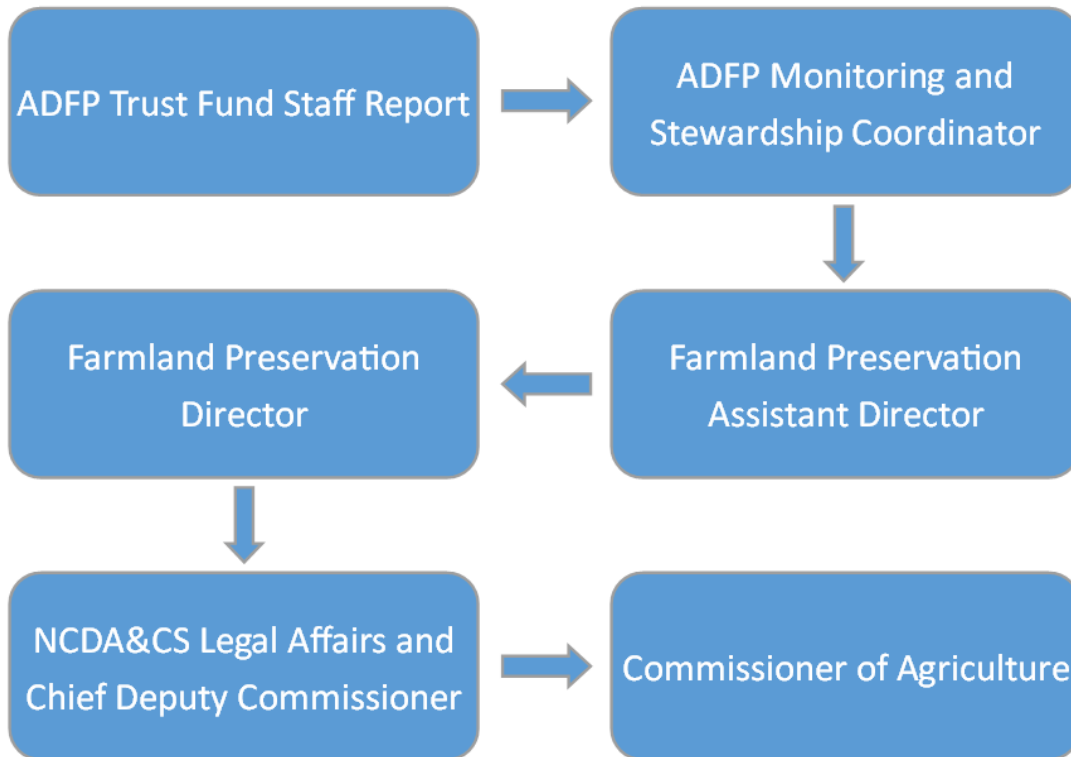
After the approval of final budget and progress reports and the closeout of the contract, Grantees will complete and submit the online “Grantee Monitoring Report – Perpetual or Term Easement” to ADFP Trust Fund office annually on or before December 31. The “Grantee Monitoring Report – Perpetual or Term Easement” is accessed through NC ADFP Trust Fund’s website. Grantees should navigate to <https://ncadfp.org/>, then click on the “Downloads” tab. The portal is at the bottom of the “Downloads” tab and is labeled “Grantees: Click Here to Access the ADFP Trust Fund Grantee Monitoring Report Submission Portal.” Grantees will be required to create a Formsite account to access the report portal. Grantees should follow the prompts in the online portal to complete and submit their report.

Failure to file annual monitoring reports on or before December 31 of each year shall constitute a violation of the easement and the grant contract.

In January, ADFP Trust Fund staff and grantees will coordinate to the extent possible the annual monitoring visit schedule for easements due for a site visit. Grantees are encouraged to submit tentative site visit schedule to ADFP Trust Fund office ninety (90) days prior to first scheduled site visit. As subsequent site visits are scheduled throughout the year by the grantee, the ADFP Trust Fund office will be notified in a timely manner of site visits due for that calendar year.

VI. Additional Guidance and Reference – Dispute Resolutions

For issues in dispute or potential violations, the ADFP Trust Fund Staff will report such differences to the Farmland Preservation Director. If the Farmland Preservation Director is unable to find a resolution, the Director will review with the appropriate NCDA&CS management for assistance and instruction, e.g. NCDA&CS Legal Affairs, Chief Deputy Commissioner, and Commissioner of Agriculture. See chart below.



ADFP Trust Fund Staff are to follow appropriate approved ADFP Trust Fund Policies and Guidelines as directed by the ADFP Trust Fund Advisory Committee and the Commissioner of Agriculture, i.e. ADFP Trust Fund Grantee Eligibility Status.

VII. Monitoring Documents

The following documents will be used for the monitoring of conservation easements:

- Grantee Monitoring Report – Perpetual or Term Easement
- ADFP Trust Fund Staff Monitoring Report – Perpetual or Term Easement
- ADFP Trust Fund Staff In-Office Monitoring Report – Perpetual or Term Easement
- ADFP Trust Fund Staff Incident Report – Perpetual or Term Easement
- Documents from the recorded conservation easement, including, but not limited to, recorded survey, baseline documentation report, previous monitoring reports, and the deed of conservation easement.

VIII. Document Filing, Retention, and Disposal

All completed reports, including maps from GIS and supplemental documentation from grantees, will be scanned for electronic storage and printed for paper files. The North Carolina State Property Office, Land Asset Maintenance database (<http://www.ncspo.com/fis/dbLandAsset.aspx>) lists all ADFP Trust Fund funded easements. Electronic copies of monitoring documents will be stored on the ADFP Trust Fund server and SharePoint page.

All monitoring documents will be filed, retained, and disposed of pursuant to the ADFP Trust Fund records retention schedule.